

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Andrew Foy on March 19, 2010.

The application has been amended as follows:

**Claim 56 (renumbered as claim 3):** ~~A computer program, stored on a computer readable medium, comprising~~ wherein the computer readable medium is at least one of a machine, a component, equipment, a disk, and memory, and wherein the computer readable medium is storing instructions for:

establishing a presence-based communications session between a sender and a recipient, wherein the instructions for establishing the presence-based communications session between the sender and the recipient include instructions for:

initiating a text instant messaging session between the sender and the recipient,

in response to initiating the text instant messaging session between the sender and the recipient, enabling display, to the sender, of an instant messaging graphical user interface associated with the initiated text instant messaging session, the instant messaging graphical user interface being configured to enable the sender to compose and send text instant messages to the recipient,

in response to initiating the text instant messaging session between the sender and the recipient, determining if the recipient is capable of participating in video instant messaging, and

based on a determination that the recipient is capable of participating in video instant messaging, enabling the graphical user interface associated with the instant messaging session to reflect that the recipient is capable of participating in video instant messaging; and

during the presence-based communications session between the sender and the recipient:

establishing a video communications session between the sender and the recipient;

generating a video instant message on behalf of the sender;

storing the video instant message on behalf of the sender; and

after generation of the video instant message is complete, receiving an indication to trigger sending of the video instant message to the recipient; and

in response to receiving the indication to trigger sending of the video instant message to the recipient, initiating a transfer of the video instant message to the recipient using the video communications session.

**Claim 64 (renumbered as claim 8):** A computer program, stored on a computer readable medium, ~~comprising~~ wherein the computer readable medium is at least one of a machine, a component, equipment, a disk, and memory, and wherein the computer readable medium is storing instructions for:

establishing a presence-based communications session between a sender and a recipient, the instructions for establishing the presence-based communications session between the sender and the recipient including instructions for:

initiating a text instant messaging session between the sender and the recipient,

in response to initiating the text instant messaging session between the sender and the recipient, enabling display, to the sender, of an instant messaging

graphical user interface associated with the initiated text instant messaging session, the instant messaging graphical user interface being configured to enable the sender to compose and send text instant messages to the recipient, in response to initiating the text instant messaging session between the sender and the recipient, determining if the recipient is capable of participating in video instant messaging, and

based on a determination that the recipient is capable of participating in video instant messaging, enabling the graphical user interface associated with the instant messaging session to reflect that the recipient is capable of participating in video instant messaging; and

during the presence-based communications session between the sender and the recipient:

establishing a video communications session between the sender and the recipient;

receiving, on behalf of the recipient, a completed video instant message sent by the sender using the video communications session;

storing the video instant message on behalf of the recipient;

accessing the stored video instant message; and

enabling presentation of the video instant message to the recipient.

**Add Claim 98 (renumbered as claim 4): The computer readable medium of claim 56 wherein the memory is an external memory.**

**Add Claim 99 (renumbered as claim 5): The computer readable medium of claim 56 wherein the memory is an internal memory.**

**Add Claim 100 (renumbered as claim 6): The computer readable medium of claim 56 wherein the computer readable medium is a client device.**

**Add Claim 101 (renumbered as claim 7):** The computer readable medium of claim 56 wherein the computer readable medium is a host device.

**Add Claim 102 (renumbered as claim 9):** The computer readable medium of claim 64 wherein the memory is an external memory.

**Add Claim 103 (renumbered as claim 10):** The computer readable medium of claim 64 wherein the memory is an internal memory.

**Add Claim 104 (renumbered as claim 11):** The computer readable medium of claim 64 wherein the computer readable medium is a client device.

**Add Claim 105 (renumbered as claim 12):** The computer readable medium of claim 64 wherein the computer readable medium is a host device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AVI GOLD whose telephone number is (571)272-4002. The examiner can normally be reached on M-F 8:30 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. G./  
Examiner, Art Unit 2457

/Moustafa M Meky/  
Primary Examiner, Art Unit 2457